

Application No. 10/813,054
Docket No. F05-169600M/KQK

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REMARKS

Entry of this Amendment is believed proper since no new issues are being raised
which would require the Examiner's further consideration and/or search.

Claims 1-8 and 17-24 are all the claims presently pending in this application. Claims 1, 5, 7 and 21 have been amended to more particularly define the claimed invention. Claims 23-24 have been added to claim additional features of the claimed invention. Claim 3 has been canceled.

It is noted that the amendments are made only to more particularly define the invention and not for distinguishing the invention over the prior art, for narrowing the scope of the claims, or for any reason related to a statutory requirement for patentability. It is further noted that, notwithstanding any claim amendments made herein, Applicant's intent is to encompass equivalents of all claim elements, even if amended herein or later during prosecution.

Claims 1-4 stand rejected under 35 U.S.C. §102(b) as being anticipated by Danna, U.S. Pat. No. 5,221,021.

Claims 1-4 stand rejected under 35 U.S.C. §102(e) as being anticipated by Fish, U.S. Pat. App. Pub. No. 2003/0057212.

Claims 1, 2, 17 and 18 stand rejected under 35 U.S.C. §102(e) as being anticipated by Puempel et al., U.S. Pat. No. 6,571,978.

Claims 5-8 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Danna, U.S. Pat. No. 5,221,021, further in view of Ball, U.S. Pat. No. 2,208,621.

Claims 5-8 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Fish, U.S. Pat. App. Pub. No. 2003/0057212, further in view of Ball, U.S. Pat. No. 2,208,621.

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Claims 2-8 and 18-22 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Puempel et al., U.S. Pat. No. 6,571,978, further in view of Danna, U.S. Pat. No. 5,221,021 and Ball, U.S. Pat. No. 2,208,621.

These rejections are respectfully traversed in view of the following discussion.

I. APPLICANT'S CLAIMED INVENTION

The claimed invention (as defined, for example, by independent claim 1) is directed to a fuel tank structure, including a lower member including a plurality of bottom portions each constituting a portion of a plane, including a single bottom portion constituting the lowest planar position in the lower member, and a display portion of a working position for locating a waste fuel hole, the display portion being provided within a lowest outer surface of the single bottom portion constituting the lowest planar position of the fuel tank in correspondence with a fuel remaining portion, wherein the display portion comprises a bead portion formed by projecting a predetermined amount of the bead portion to an inner side of the fuel tank, wherein the bead portion is visible from an outer side of the fuel tank.

Conventionally, during the process of draining fuel from scrapped vehicles it is very expensive and time consuming to locate the bottom of a fuel tank and/or the chamber module formation that includes the fuel pump unit in order bore a fuel draining hole to completely drain out the remaining fuel. (Application at page 1, lines 17-23, and page 3, lines 2-10.)

The claimed invention (e.g., as recited in claim 1), on the other hand, includes a lower member including a plurality of bottom portions each constituting a portion of a plane, including a single bottom portion constituting the lowest planar position in the lower member, and a display portion of a working position for locating a waste fuel hole, the

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display portion being provided within a lowest outer surface of the single bottom portion constituting the lowest planar position of the fuel tank in correspondence with a fuel remaining portion, wherein the display portion comprises a bead portion formed by projecting a predetermined amount of the bead portion to an inner side of the fuel tank, wherein the bead portion is visible from an outer side of the fuel tank, which is important for locating the position to completely drain any remaining fuel from the fuel tank. (Application at page 3, lines 13-19.)

II. APPLICANT'S SUMMARY OF TELEPHONIC INTERVIEW

Applicant's representative held in an interview with Examiner of record on May 15, 2007. Applicant representative discussed the prior art references rejection Applicant claims with the Examiner and failed to come to any agreement with the Examiner over the patentability of Applicant's claimed invention over the prior art references.

III. THE ALLEGED PRIOR ART REJECTIONS

A. The 35 U.S.C. § 102(b) Rejection over Danna, U.S. Pat. No. 5,221,021

The Examiner alleges that Danna, U.S. Pat. No. 5,221,021, (Danna), teaches the invention of claims 1-4.

Applicant submits, however, that Danna does not teach or suggest, *"a lower member including a plurality of bottom portions each constituting a portion of a plane, including a single bottom portion constituting the lowest planar position in the lower member; and a display portion of a working position for locating a waste fuel hole, the display portion being provided within a lowest outer surface of the single bottom portion constituting the lowest*

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planar position of the fuel tank in correspondence with a fuel remaining portion, wherein the display portion comprises a bead portion formed by projecting a predetermined amount of the bead portion to an inner side of the fuel tank, wherein the bead portion is visible from an outer side of the fuel tank."

Danna discloses a single planar bottom surface at reference number 58, see Fig. 4, wherein a positioning surface 32 is centrally located therein.

Danna fails to teach or suggest a plurality of planar bottom portions each constituting a portion of a plane. Assuming *arguendo* that the Examiner is alleging positioning surface 32 as a second bottom portion, Danna still fails to teach or suggest position surface 32 as a bottom portion constituting a portion of a plane.

Additionally, Danna fails to teach or suggest a display portion of a working position for locating a waste fuel hole if the Examiner alleges that positioning surface 32 is equivalent to a second of a plurality of bottom portions. Applicant's claimed invention claims a display portion provided within a lowest outer surface of the single bottom portion of the plurality of planar bottom portions.

Furthermore, Danna fails to teach or suggest "wherein the display portion comprises a bead portion formed by projecting a predetermined amount of the bead portion to an inner side of the fuel tank, wherein the bead portion is visible from an outer side of the fuel tank."

Therefore, Applicant respectfully requests the Examiner to reconsider and withdraw this rejection since the alleged prior art reference to Danna fails to teach or suggest each element and feature of Applicant's claimed invention.

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B. The 35 U.S.C. § 102(e) Rejection over Fish, U.S. Pat. App. Pub. No. 2003/0057212

The Examiner alleges that Fish, U.S. Pat. App. Pub. No. 2003/0057212, (Fish), teaches the invention of claims 1-4.

Applicant submits, however, that Fish does not teach or suggest, *"a lower member including a plurality of bottom portions each constituting a portion of a plane, including a single bottom portion constituting the lowest planar position in the lower member; and a display portion of a working position for locating a waste fuel hole, the display portion being provided within a lowest outer surface of the single bottom portion constituting the lowest planar position of the fuel tank in correspondence with a fuel remaining portion, wherein the display portion comprises a bead portion formed by projecting a predetermined amount of the bead portion to an inner side of the fuel tank, wherein the bead portion is visible from an outer side of the fuel tank."*

Fish discloses a first flat bottom portion of the fuel tank 10 and a second flat bottom portion of the fuel tank projecting below the first flat bottom portion of the fuel tank directly under in-tank fuel filter 28.

However, Fish fails to teach or suggest *a display portion of the work in position for locating a waste fuel, the display portion being provided within a lowest outer surface of the single bottom portion.*

Fish merely discloses a flat surface of the projecting portion of the fuel tank 10 directly under the in-tank fuel filter 28. The lowest outer surface of the fuel tank under the in-tank fuel filter 28 fails to show any *display portion*.

Assuming *arguendo* that the Examiner has equated Fish's angled transition portion

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that connects the lowest projecting tank portion with the remaining bottom surface of the fuel tank, Fish still fails to teach or suggest the angle transition portion *being provided within a lowest outer surface* of the projecting portion of the fuel tank directly under the in-tank fuel filter 28, since the lowest outer surface of the projecting shall tank portion is the planar surface of the projection that begins after, and therefore excludes, the angle transition portion.

Furthermore, Fish fails to teach or suggest "wherein the display portion comprises a bead portion formed by projecting a predetermined amount of the bead portion to an inner side of the fuel tank, wherein the bead portion is visible from an outer side of the fuel tank."

Therefore, Applicant respectfully requests the Examiner to reconsider and withdraw this rejection since the alleged prior art reference to Fish fails to teach or suggest each element and feature of Applicant's claimed invention.

C. The 35 U.S.C. § 102(e) Rejection over Puempel et al., U.S. Pat. No. 6,571,978

The Examiner alleges that Puempel et al., U.S. Pat. No. 6,571,978, (Puempel), teaches the invention of claims 1, 2, 17 and 18.

Applicant submits, however, that Puempel does not teach or suggest, *"a lower member including a plurality of bottom portions each constituting a portion of a plane, including a single bottom portion constituting the lowest planar position in the lower member; and a display portion of a working position for locating a waste fuel hole, the display portion being provided within a lowest outer surface of the single bottom portion constituting the lowest planar position of the fuel tank in correspondence with a fuel remaining portion, wherein the display portion comprises a bead portion formed by*

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projecting a predetermined amount of the bead portion to an inner side of the fuel tank,
wherein the bead portion is visible from an outer side of the fuel tank."

Puempel discloses a plurality of planar bottom portions 12 and 14.

Examiner alleges that Puempel discloses Applicant's claimed display portion being
"the outside surface of the left bottom wall" 12.

However, maintain that Puempel fails to teach or suggest the outside surface of the
left bottom wall being equivalent to Applicant's display portion being provided within a
lowest outer surface of the single bottom portion, since the lowest outer surface of the tank 12
and 14 is the lowest planar surface of the tank that begins after, and therefore excludes, "the
outside surface of the left bottom wall."

Furthermore, Puemple fails to teach or suggest "wherein the display portion
comprises a bead portion formed by projecting a predetermined amount of the bead portion
to an inner side of the fuel tank, wherein the bead portion is visible from an outer side of the
fuel tank."

Therefore, Applicant respectfully requests the Examiner to reconsider and withdraw
this rejection since the alleged prior art reference to Puempel fails to teach or suggest each
element and feature of Applicant's claimed invention.

**D. The 35 U.S.C. § 103(a) Rejection over Danna, U.S. Pat. No. 5,221,021
further in view of Ball, U.S. Pat. No. 2,208,621**

The Examiner alleges that Danna, U.S. Pat. No. 5,221,021, (Danna), further in view of
Ball, U.S. Pat. No. 2,208,621, (Ball), makes obvious the invention of claims 5-8.

The Examiner alleges that one of ordinary skill in the art would have been motivated

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to modify Danna with the teaching from Ball to form the invention of claims 5-8. Applicant submits, however that these references would not have been combined and even if combined, the combination would not teach or suggest each element of the claimed invention.

That is, Ball fails to make up for the deficiencies of Danna as discussed above.

The Examiner asserts Ball discloses bead portions 15 separated by cut portions 15a of Fig. 1.

However, even assuming *arguendo* that the Examiner's position has some merit, Ball fails to teach or suggest, *"a lower member including a plurality of bottom portions each constituting a portion of a plane, including a single bottom portion constituting the lowest planar position in the lower member; and a display portion of a working position for locating a waste fuel hole, the display portion being provided within a lowest outer surface of the single bottom portion constituting the lowest planar position of the fuel tank in correspondence with a fuel remaining portion, wherein the display portion comprises a bead portion formed by projecting a predetermined amount of the bead portion to an inner side of the fuel tank, wherein the bead portion is visible from an outer side of the fuel tank."*

Therefore, Ball fails to overcome the deficiencies of Danna.

Therefore, Applicant respectfully requests the Examiner to reconsider and withdraw this rejection since the alleged prior art references to Danna and Ball (either alone or in combination) fail to teach or suggest each element and feature of Applicant's claimed invention.

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E. The 35 U.S.C. § 103(a) Rejection over Fish, U.S. Pat. App. Pub. No. 2003/0057212 further in view of Ball, U.S. Pat. No. 2,208,621

The Examiner alleges that Fish, U.S. Pat. App. Pub. No. 2003/0057212, (Fish), further in view of Ball, U.S. Pat. No. 2,208,621, (Ball), makes obvious the invention of claims 5-8.

The Examiner alleges that one of ordinary skill in the art would have been motivated to modify Fish with the teaching from Ball to form the invention of claims 5-8. Applicant submits, however that these references would not have been combined and even if combined, the combination would not teach or suggest each element of the claimed invention.

That is, Ball fails to make up for the deficiencies of Fish as discussed above.

The Examiner asserts Ball discloses bead portions 15 separated by cut portions 15a of Fig. 1.

However, even assuming *arguendo* that the Examiner's position has some merit, Ball fails to teach or suggest, *"a lower member including a plurality of bottom portions each constituting a portion of a plane, including a single bottom portion constituting the lowest planar position in the lower member; and a display portion of a working position for locating a waste fuel hole, the display portion being provided within a lowest outer surface of the single bottom portion constituting the lowest planar position of the fuel tank in correspondence with a fuel remaining portion, wherein the display portion comprises a bead portion formed by projecting a predetermined amount of the bead portion to an inner side of the fuel tank, wherein the bead portion is visible from an outer side of the fuel tank."*

Therefore, Ball fails to overcome the deficiencies of Fish.

Therefore, Applicant respectfully requests the Examiner to reconsider and withdraw this rejection since the alleged prior art references to Fish and Ball (either alone or in

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combination) fail to teach or suggest each element and feature of Applicant's claimed invention.

F. The 35 U.S.C. § 103(a) Rejection over Puempel et al., U.S. Pat. No. 6,571,978 further in view of Danna, U.S. Pat. No. 5,221,021 and Ball, U.S. Pat. No. 2,208,621

The Examiner alleges that Puempel et al., U.S. Pat. No. 6,571,978, (Puempel), further in view of Danna, U.S. Pat. No. 5,221,021 and Ball, U.S. Pat. No. 2,208,621, (Danna and Ball), makes obvious the invention of claims 2-8 and 18-22.

The Examiner alleges that one of ordinary skill in the art would have been motivated to modify Puempel with the teaching from Danna and Ball to form the invention of claims 2-8 and 18-22. Applicant submits, however that these references would not have been combined and even if combined, the combination would not teach or suggest each element of the claimed invention.

That is, Danna and Ball fails to make up for the deficiencies of Puempel as discussed above.

The Examiner asserts Ball discloses bead portions 15 separated by cut portions 15a of Fig. 1.

However, even assuming *arguendo* that the Examiner's position has some merit, Danna and Ball fails to teach or suggest, "*a lower member including a plurality of bottom portions each constituting a portion of a plane, including a single bottom portion constituting the lowest planar position in the lower member; and a display portion of a working position for locating a waste fuel hole, the display portion being provided within a lowest outer surface of the single bottom portion constituting the lowest planar position of the fuel tank in*

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correspondence with a fuel remaining portion, wherein the display portion comprises a bead portion formed by projecting a predetermined amount of the bead portion to an inner side of the fuel tank, wherein the bead portion is visible from an outer side of the fuel tank."

Therefore, Danna and Ball fails to overcome the deficiencies of Puempel.

Therefore, Applicant respectfully requests the Examiner to reconsider and withdraw this rejection since the alleged prior art references to Puempel and Danna and Ball (either alone or in combination) fail to teach or suggest each element and feature of Applicant's claimed invention.

G. Newly Added Independent Claim 24 with Respect to the Applied Prior Art References

With respect to Applicant's newly added independent claim 24, the applied prior art references and any combination thereof fail to teach or suggest, *"another display portion of another working position for locating another waste fuel hole, the another display portion being provided within another bottom outer surface of another bottom portion of the plurality of the bottom portions of the fuel tank in correspondence with another fuel remaining portion."*

Therefore, none of the cited prior art references nor any alleged combination thereof teaches or suggests these features of Applicant's claimed invention with respect to newly added claim 24.

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IV. FORMAL MATTERS AND CONCLUSION

In the election/restriction of the Final Office Action mail on September 26, 2006, the Examiner states that claims 9-20 are directed toward, "the embodiment according to Fig. 2 and 3A," page 2, lines 1-5 of the Final Office Action. However, Figs. 1 and 2 relate to a first embodiment (see page 5, lines 8-9 of the original Specification), and Figs. 3A and 3B relate to a second embodiment. That is, the understanding of the Examiner about the relation between the drawings and the embodiments is incorrect. Correctly, even in the first embodiment, the lower member 4 has two bottom portions as shown in Fig. 2. Therefore, Applicant respectfully traverses the present election/restriction requirement and requests the Examiner to withdraw the election/restriction requirement. (Applicant makes this request even though the After-Final Rejection addresses claims 17-22, since the Examiner failed to explicitly withdraw the election/restriction requirement.)

Further, Applicant previously amended claim 17 to depend on the amended claim 1. Claim 17 is directed only to the second embodiment, so that claim 17 has a status of "Withdrawn," by the election/restriction requirement. However, the dependent claim 17 should be rejoined when independent claim 1 is allowed.

In view of the foregoing, Applicant submits that claims 1-8 and 17-24, all of the claims presently pending in the application, are patentably distinct over the prior art of record and are in condition for allowance. The Examiner is respectfully requested to pass the above application to issue at the earliest possible time.

Should the Examiner find the application to be other than in condition for allowance, the Examiner is requested to contact the undersigned at the local telephone number listed below to discuss any other changes deemed necessary in a telephonic or personal interview.

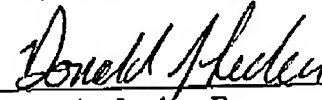
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The Commissioner is hereby authorized to charge any deficiency in fees or to credit any overpayment in fees to Attorney's Deposit Account No. 50-0481.

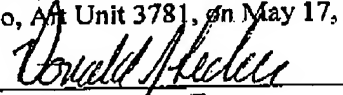
Respectfully Submitted,

Date: May 17, 2007
Donald J. Lecher, Esq.
Reg. No. 41,933
Sean M. McGinn, Esq.
Reg. No. 34,386

McGinn Intellectual Property Law Group, PLLC
8321 Old Courthouse Rd., Suite 200
Vienna, Virginia 22182
(703) 761-4100
Customer No. 21254

CERTIFICATE OF TRANSMISSION

I certify that I transmitted via facsimile to (571) 273-8300 the enclosed Amendment under 37 C.F.R. § 1.116 to Examiner Castellano, Art Unit 3781, on May 17, 2007.


Donald J. Lecher, Esq.
Registration No. 41,933
Sean M. McGinn, Esq.
Registration No. 34,386